IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

Crl.MC.No. 1659 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.2857/2007 Dated 15/05/2007

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PETITIONER: APPLICANTS/ACCUSED NO.2 AND 3

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1. ABDUL SALAM, 2ND ACCUSED,
S/O.ALI, KORANKANDATH HOUSE, THIRUTHUMMAL,
IRINGANOOR P.O., THIRUR VIA, MALAPPURAM DISTRICT.

2. ABDUL RAZAK, 3RD ACCUSED, S/O.ASSAINAR,
THOTTIPARAMBIL HOUSE, THIRUTHUMMAL HOUSE,
TIRUR VIA, MALAPPURAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: COMPLAINANT AND STATE

STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, THIRUR POLICE STATION,
THIRUR REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1659 of 2007

Dated this the 23rd day of May, 2007

ORDER

In petitioners' application for anticipatory bail was not fully allowed but directions were issued by another Bench of this Court during the vacation. The petitioners have now come before this Court with a prayer that the condition may be altered.

2. The petitioners face serious allegations and the learned Judge only directed that the petitioners shall, on any date between 22.05.2007 and 24.05.2007, surrender before the Investigating Officer for the purpose of investigation and recovery of incriminating materials. There is a further direction that the petitioners shall thereafter be produced, on the same date, before the learned Magistrate, who shall consider their applications for regular bail preferably on the same date on which such applications are filed.

3. The petitioners now pray that the above conditions may be deleted and the petitioners may be directed to surrender before the learned Magistrate on any specified date. As the allegation is that offences have been committed against a woman police constable, the petitioners apprehend physical harm when they surrender before the Investigating Officer. This in short is the grievance.

4. I find absolutely no necessity to modify the conditions imposed. However, I may hasten to observe that the said direction will not in any way fetter the right of the petitioners to surrender before the learned Magistrate having jurisdiction and seek regular bail in the ordinary course. Needless to say, if and when they so surrender and apply for bail, their applications for bail will also have to be considered by the learned Magistrate expeditiously - after, of course, giving notice to the police and after hearing the police.

5. With the above observations, this Crl.M.C is, dismissed.

(R.BASANT, JUDGE)

rtr/-